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VB PARTNERS, LLC, D.B.A. LUTE!

IN THE UNITED STATES DISTRICT COURT,

NORTHERN DISTRICT OF CALIFORNIA

VB PARTNERS, LLC, D.B.A. LUTE!, a California limited liability company, Plaintiff, v. LUTE LIFESTYLE BRANDS; and DOES 1 through 10, Inclusive, Defendants.	Case No. __________ **COMPLAINT FOR:** **(1) FEDERAL SERVICE MARK INFRINGEMENT UNDER 15 U.S.C. § 1114(1)(a) AND (b);** **(2) FALSE DESIGNATION OF ORIGIN UNDER 15 U.S.C. § 1125(a);** **(3) TRADE NAME OR SERVICE MARK DILUTION UNDER 15 U.S.C. § 1125(c)(1);** **(4) INJURY TO BUSINESS REPUTATION AND DILUTION UNDER CAL. BUS. & PROF. CODE § 14330;** **(5) UNFAIR COMPETITION CAL. BUS. & PROF. CODE § 17200 ET SEQ.; AND** (6) **COMMON LAW UNFAIR COMPETITION AND SERVICE MARK INFRINGEMENT** **DEMAND FOR JURY TRIAL**

Plaintiff, VB Partners, LLC, doing business as Lute! and Lute! Training Academy, a California limited liability company (hereinafter "Plaintiff" or "LUTE"), by its undersigned attorneys, complains and alleges against Defendants, Lute Lifestyle Brands, who on information and belief, is a Philippines corporation (hereinafter "Defendant" or "Lute Lifestyle") and Does 1 through 10, inclusive, alleges as follows:

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. Section 1338(a) as this action arises under the Lanham Act, 15 U.S.C. Sections 1114, 1125(a), and l125(c)(l) as well as under pendent jurisdiction under 28 U.S.C. Section 1367. This Court has related claim jurisdiction over the state trademark infringement claim, state injury to business reputation and dilution claim, state unfair competition claim, and common law unjust enrichment claim pursuant to 28 U.S.C. § 1338(b) and 28 U.S.C. § 1367.

2. Venue is proper in the Northern District of California pursuant to 28 U.S.C. §§ 1391(b) and (c) because Defendants have extensive contacts with and conducts business within the Northern District of California. Defendants have advertised, promoted and sold their services into the Northern District of California. Further, a substantial part of the events, omissions and acts that are the subject matter of this action occurred within the Northern District of California, and Defendants are subject to personal jurisdiction. Finally, Defendants have availed themselves of United States social networking services and the Internet to market their brand to consumers in the United States and within the Northern District of California.

THE PARTIES

1. Plaintiff VB Partners, LLC, doing business as Lute! and Lute! Training Academy, is, and at all times mentioned herein was, a limited liability company organized and existing under the laws of the State of California, located and doing business at 1605 N. Capitol Ave, San Jose, California.

2. On information and belief, Defendant Lute Lifestyle is, and at all times mentioned herein was, a Philippine limited liability company with its principal place of business in the Philippines.

3. On information and belief, Defendants conduct business under the name Lute Lifestyle Brands.

4. On information and belief, Plaintiff alleges that each of the Defendants named herein as Does 1 through 10, inclusive, performed, participated in, or abetted in some manner, the acts alleged herein, proximately caused the damages alleged below, and are liable to Plaintiff for the damages and relief sought herein.

5. On information and belief, Plaintiff alleges that, in performing the acts and omissions alleged herein, and at all times relevant hereto, each of the Defendants was the agent and employee of each of the other Defendants and was at all times acting within the course and scope of such agency and employment with the knowledge and approval of each of the other Defendants.

6. The identities of the individuals and entities named as Doe Defendants herein are not presently known, but Plaintiff will seek to amend the Complaint to properly identify them when their proper names have been ascertained.

NATURE OF THE CASE

7. Plaintiff seeks injunctive relief, damages, attorneys' fees and costs against Defendants for service mark infringement under 15 U.S.C. Section 1114(l)(a) and (b); false designation of origin and/or sponsorship under 15 U.S.C. Section 1125(a); dilution under 15 U.S.C. Section 1125(c); injury to business reputation and dilution under California Business and Professions Code Section 14330; unfair competition under California Business and Professions Code Section 17200 *et seq*; and common law trademark and trade name infringement, and unfair competition.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

8. Plaintiff is the owner of the mark LUTE! (the “Mark”), United States service mark Registration No. 4,649,200 (“Registered Mark”) used in connection with instruction services in the

field of Brazilian Jiu-Jitsu, wrestling, martial arts and circuit training; Health club services, namely, providing instruction and equipment in the field of physical exercise; providing fitness and exercise facilities; providing information on physical exercise; providing assistance, personal training and physical fitness consultation to individuals to help them make physical fitness, strength, conditioning, and exercise improvement in their daily living; and providing a website featuring information on exercise and fitness in International Class 041. A copy of this registration is attached hereto as Exhibit A.

9. On information and belief, at all relevant times hereto, Defendants have been and are in the business of selling Brazilian Jiu-Jitsu apparel, promoting Brazilian Jiu-Jitsu events worldwide and sponsoring various Brazilian Jiu-Jitsu athletes using the Mark or a mark that is confusingly similar to the Mark. On information and belief, Defendants use the Mark in conducting and promoting its business, including, without limitation, using the Mark as a trade name and on its apparel, websites, social media and other marketing materials.

10. Plaintiff used the Registered Mark before Defendants used that same mark or a mark confusingly similar. Plaintiff is thus the senior user of the Mark.

11. Defendants are not authorized to use the Mark in connection with their services, nor are Defendants affiliated with Plaintiff.

12. Plaintiff sent its first cease-and-desist letter to Defendant Lute Lifestyle on November 30, 2015. A copy of this correspondence and email response are attached hereto as Exhibit B.

13. On November 30, 2015, Defendant Lute Lifestyle responded to this correspondence via email, asking for an extension of time to respond to Plaintiff's cease-and-desist letter. A copy of this correspondence and email response are attached hereto as Exhibit C.

14. Defendant Lute Lifestyle's counsel responded to the November 30, 2015, correspondence on December 9, 2015, stating the Defendant was not in the same line of business as Lute! Training Academy despite the fact they principally are in the business of Brazilian Jiu-Jitsu, wrestling, martial arts and

circuit training. Defendant Lute Lifestyle, through its counsel, erroneously tried to claim that the Mark was generic, despite the fact Defendant had evidence of the Registered Mark in the United States. Finally, despite its use of United States social media platforms, such as Facebook and Instagram, and a website selling its goods and services into the United States, Defendant Lute Lifestyle's counsel claimed it was only operating in the Philippines. A copy of this correspondence is attached hereto as Exhibit D.

15. On December 11, 2015, Plaintiff sent a second correspondence to Defendant Lute Lifestyle, engaging in the exercise of explaining to Defendant how their use of the Mark was, indeed, likely to cause consumer confusion despite their protestations. A copy of this correspondence is attached hereto as Exhibit E.

16. On December 16, 2015, Defendant Lute Lifestyle, through its counsel, continued to argue its erroneous interpretation of United States trademark law and demonstrate its lack of understanding of the rights that come with registration of a mark in the United States. Notably in this correspondence, Defendant's counsel stipulated that "Lute LB will, henceforth, cease using its 'Lute' logo in its products and in its social media identity and will be using a new identity. Lute LB will continue to maintain its current website, as well as its social media accounts using its existing on-line address. As for the current products of Lute LB containing the name 'lute', these will be sold in the Philippines until exhausted, and thereafter replaced with a different line." A copy of this correspondence is attached hereto as Exhibit F.

17. In January 2016, Plaintiff conducted a cursory online audit of Defendant Lute Lifestyle's promised removal of its confusing similarly mark. Plaintiff immediately discovered that Lute Lifestyle Brands was continuing to use the mark, despite its stipulations in its December 15, 2015, correspondence. Plaintiff was clear that Defendant had actively engaged in deception in regards to its intentions to remove all use of the Mark or confusingly similar marks.

18. On January 14, 2016, Plaintiff sent a third correspondence to Defendant Lute Lifestyle,

noting that the Defendant had failed to (1) remove its use of the Mark from Facebook, other social media accounts and its website domain; (2) remove pictures of merchandise with the Mark upon it from its website; and (3) remove its Instagram account and images upon the account using the Mark. A copy of this correspondence is attached hereto as Exhibit G.

19. On February 9, 2016, Defendant Lute Lifestyle, through its counsel, again explicitly misled the Plaintiff and stated that it had removed its use of the Registered Mark. Defendant continued to argue that Plaintiff did not have any rights to the Mark and advanced that "…Lute LB cannot accede to your demands (note that it has only been 2 months since we agreed to close this matter)." Plaintiff, at no time, ever agreed in written correspondence or in any other method of communication that it was satisfied with any action that Defendant had taken, particularly since Defendant misrepresented the actions that it had taken to curb the rampant infringement of Plaintiff's Mark. A copy of this correspondence is attached hereto as Exhibit H.

20. On February 16, 2016, Defendant Lute Lifestyle, through its counsel, notified Plaintiff of its disingenuous attempt to "rebrand," using the marks "Lute LB" and "LT/LF," both of which are clearly likely to cause consumer confusion with the Mark as "Lute LB" and "LT/LF" are merely shorthand for "Lute Lifestyle". They are still principally using the mark "LUTE". A copy of this correspondence is attached hereto as Exhibit I.

21. On February 26, 2016, Plaintiff sent a fourth correspondence to Defendant Lute Lifestyle that the paltry and disingenuous measures it had taken to "rebrand" were not acceptable as they were still likely to cause consumer confusion with the Mark. A copy of this correspondence is attached hereto as Exhibit J.

22. Defendant ignored Plaintiff's correspondence on February 26, 2016. Plaintiff had assumed that Defendant had finally acceded and would comply with its demands, as it was a crystal clear warning in terms of the infringement that was persistently occurring.

23. In Fall 2016, Plaintiff's Chief Executive Officer, Stephanie Wallace, began receiving emails and other communications notifying her that not only was Defendant Lute Lifestyle still using the Mark as a central part of its brand, but Defendants had availed themselves physically into the United States by participating in Brazilian Jiu-Jitsu tournaments and other events in the United States. Copies of this infringement are attached hereto as Exhibit K.

24. On December 19, 2016, Plaintiff sent a fifth correspondence to Defendant Lute Lifestyle, notifying them of their continued infringement of the Mark, and Plaintiff's intent to file suit for trademark infringement and related claims if Defendant Lute Lifestyle did not immediately cease its infringing use of its mark. A copy of this correspondence is attached hereto as Exhibit L.

25. On January 8, 2017, Defendant Lute Lifestyle, through its counsel, sent correspondence to Plaintiff in which Defendant Lute Lifestyle engaged in an overt act of deceit by stating "Lute LB has made good faith and concrete efforts to accommodate your demands, despite its legal position that it has not infringed your client's 'Lute!' mark. These include the following actions: (1) it has ceased using its "lute" logo in its products; (2) it has ceased using "lute" in its social media identity; and (3) it has started using a new identity (i.e., a stylized rendering of the mark 'LT/LF')." Plaintiff, again, conducted an audit to substantiate Defendant Lute Lifestyle's claims, which were found to be overt acts of deception. Despite being repeatedly presented with evidence and legal explanations as to its infringement of Plaintiff's Mark, Defendant Lute Lifestyle continued its infringement of the Mark. A copy of this correspondence is attached hereto as Exhibit M.

26. On January 27, 2017, Plaintiff sent a sixth and final correspondence to Defendant Lute Lifestyle, painstakingly explaining trademark law, injunctive relief and other legal principles relating to consumer confusion and the actions Plaintiff would take to protect its brand. A copy of this correspondence is attached hereto as Exhibit N.

27. On February 9, 2017, Defendant Lute Lifestyle, through its counsel, sent correspondence to

Plaintiff claiming that it will remove references to the word “lute” in the following: “(1) the domain name for its official website; (2) the domain name for its official Facebook account; and (3) the domain name for its official Instagram account. A copy of this correspondence is attached hereto as Exhibit O.

28. In February 2017, Plaintiff began to notify United States social networks Facebook, Instagram and Twitter of the infringement of its Registered Mark. A copy of these takedown efforts is attached hereto as Exhibits P, Q and R.

29. On February 20, 2017, Defendant Lute Lifestyle, through its counsel, sent correspondence to Plaintiff claiming that “(1) It has purchased the domain name for LT/LF (ltlf.com) replacing the current domain name for its website; (2) It has replaced its official Instagram account to LT/LF; and (3) It has changed its official Facebook page to LT/LF.” A copy of this correspondence is attached hereto as Exhibit S.

30. On February 28, 2017, Plaintiff again conducted an audit of these claims and found these renewed claims of Defendant Lute Lifestyle, again, to be made in an act of overt deception.

31. On March 20, 2017, Plaintiff discovered that Defendant Lute Lifestyle had sponsored a fighter to compete in the International Brazilian Jiu-Jitsu Federation competition held at the Bren Events Center in Irvine, California. This competitor competed using the Defendant Lute Lifestyle’s Jiu-Jitsu Gi, which bears the Plaintiff’s Mark in various parts of the Gi. A copy of photographic proof of this discovery is attached hereto as Exhibit T.

32. Despite demands having been made, Defendant has failed to cease and desist from all uses of Plaintiff's mark in connection with its goods and services. Defendant continues to use Plaintiff's marks in promoting its business. Evidence of the existing infringement is attached hereto as Exhibit U.

33. Defendant's disingenuous attempt to rebrand to the name “LT/LF” does not protect it from liability because the use of an acronym that clearly stands for “Lute Lifestyle Brands” not only violates Plaintiff's federal trademark rights, but shows Defendant's willful course of conduct toward

appropriation and destruction of Plaintiff's rights in and to Plaintiff's Registered Mark after due notice. Defendant has further repeatedly and directly misled the Plaintiff on numerous occasions as to its cessation of the use of the Registered Mark or confusingly similar marks.

FIRST CLAIM FOR RELIEF

(Federal Service Mark Infringement -15 U.S.C. § 1114(1)(a) and (b))

34. Plaintiff repeats and incorporates herein by reference each and every allegation contained in Paragraphs 1 through Paragraph 33 above, inclusive, with the same force and effect as if fully set forth herein.

35. Plaintiff is the owner of a federal service mark registration and specifically asserts ownership of the following:

Registration No.	Mark	Date of Registration
4,649,200	Lute!	December 02, 2014

36. Plaintiff first used the LUTE! mark of Registration No. 4,649,200 in connection with instruction services in the field of Brazilian Jiu-Jitsu, wrestling, martial arts, circuit training and health club services at least as early as October 2013 and has continuously used the mark in connection with the services specified in the registration up to the present. Thus, before the acts complained of herein, members of the general consumer population in the United States have recognized the LUTE! mark as an exclusive source identifier for Brazilian Jiu-Jitsu training services and goods originating from Plaintiff.

37. Plaintiff's registered LUTE! mark is valid and subsisting and remains in full force and effect as evidence of the validity thereof and Plaintiff's ownership of the mark in connection with the services specified in the registration.

38. Defendant's use of Plaintiff's LUTE! Mark or confusingly similar marks in interstate commerce in connection with their goods and services is causing and will continue to cause a likelihood of confusion, mistake, and deception with respect to: (a) the source and origin of the goods and services offered by

Defendants; (b) the affiliation, connection, and association of Plaintiff with Defendants; and (c) Plaintiff's sponsorship, approval, and/or control of the goods and services offered by defendant, all in violation of the Lanham Act, 15 U.S.C. Sections 1114(1)(a) and (b).

39. Defendants are now committing the acts complained of above and have continued to do so in defiance of Plaintiff's requests that they cease such acts. Defendants' acts and conduct constitute federal service mark infringement that has caused and, unless restrained and enjoined by this Court, will continue to cause a likelihood of consumer confusion, mistake, and deception.

40. On information and belief, Defendants' acts of service mark infringement in violation of the Lanham Act have caused financial injury and damages to Plaintiff and have been willful, making this an exceptional case within the meaning of the Lanham Act, 15 U.S.C. section 1117, thereby entitling Plaintiff to damages, attorneys' fees, and costs.

41. Plaintiff is entitled to damages as a result of Defendants' actions and conduct and, because such damages alone do not provide Plaintiff with an adequate remedy at law, Plaintiff is also entitled to injunctive relief.

SECOND CLAIM FOR RELIEF

(Unfair Competition by False Designation of Origin -15 U.S.C. § 1125(a))

42. Plaintiff repeats and incorporates herein by reference each and every allegation contained in Paragraphs 1 through 41 above, inclusive, as though fully set forth herein.

43. Defendants are using Plaintiff's LUTE! mark in connection with their services.

44. On information and belief, Defendants' utilize Plaintiff's LUTE! mark in commerce, which use has been done with the deliberate intent of capitalizing and trading on the good will and reputation of Plaintiff.

45. The use in commerce of Plaintiff's LUTE! mark by Defendants will tend to cause and, on information and belief, has caused the relevant public and trade to believe erroneously that

Defendants' services are associated, authorized, sponsored, or controlled by Plaintiff.

46. Defendants' use in commerce of Plaintiff's LUTE! mark in connection with its services constitutes a false designation of the origin and/or sponsorship of such goods and services and falsely describes and represents such goods and services.

47. By its acts as alleged herein, Defendants have falsely designated and represented goods and services sold in commerce in violation of 15 U.S.C. Section 1125(a) and has otherwise used the good will of Plaintiff to sell Defendants' own goods and services and has otherwise competed unfairly with Plaintiff.

48. On information and belief, Defendants are now committing the acts complained of above and has continued to do so in defiance of Plaintiff's requests that it ceases such acts.

49. Defendants, after due notice, have displayed a willful course of conduct toward appropriation and destruction of Plaintiff's rights in and to Plaintiff's LUTE! mark.

50. Defendants' wrongful acts and conduct as alleged herein have permitted or will permit it to generate substantial sales and profits on the strength of Plaintiff's substantial advertising, sales, consumer recognition, and goodwill in connection with Plaintiff's mark.

51. As a result of Defendants' wrongful acts alleged herein, Plaintiff has suffered and will continue to suffer monetary damage in an amount not thus far determined.

52. On information and belief, Defendants' acts of unfair competition by false designation of origin in violation of the Lanham Act have caused financial injury and damages to Plaintiff and have been willful, making this an exceptional case within the meaning of the Lanham Act, 15 U.S.C. Section 1117, thereby entitling Plaintiff to damages, attorneys' fees, and costs.

53. Defendants' acts and conduct constitute unfair competition that has caused and, unless restrained and enjoined by this Court, will continue to cause irreparable harm, damage, and injury to Plaintiff's good will and business reputation.

54. Plaintiff is entitled to damages as a result of Defendants' actions and conduct and, because such damages alone do not provide Plaintiff with an adequate remedy at law, Plaintiff is entitled to injunctive relief.

THIRD CLAIM FOR RELIEF

(Trade Name or Service Mark Dilution -15 U.S.C. § 1125(c)(1))

55. Plaintiff repeats and incorporates herein by reference each and every allegation contained in Paragraphs 1 through 54 above, inclusive, as though fully set forth herein.

56. Plaintiff's trade name and service mark was used in commerce before Defendants' adoption and use of Plaintiff's mark in connection with its goods and services.

57. Plaintiff's trade name and service mark have become famous because of continuous use by Plaintiff in connection with Brazilian Jiu-Jitsu training services and generally in the field of Brazilian Jiu-Jitsu, such fame occurring before Defendants' adoption and use of Plaintiff's mark in connection with its goods and services.

58. Defendants use Plaintiff's mark in promoting its goods and services in the same trade areas and channels of trade in which Plaintiff's trade name and service mark are recognized and famous.

59. On information and belief, Defendants' use of Plaintiff's mark has lessened the capacity of Plaintiff's famous trade name and service mark to identify and distinguish Plaintiff's goods and services.

60. On information and belief, Defendants' acts and conduct as alleged herein have tarnished the reputation and recognition of Plaintiff's famous trade name and service mark by the low quality of defendant's goods and services.

61. On information and belief, Defendants' acts of trade name or service mark dilution in violation of the Lanham Act have caused financial injury and damages to Plaintiff and have been willful, making this an exceptional case within the meaning of the Lanham Act, 15 U.S.C. Section 1117, thereby entitling Plaintiff to damages, attorneys' fees, and costs.

62. Plaintiff has no adequate remedy at law and is being irreparably damaged by dilution of its famous mark, in violation of 15 U.S.C. Section l 125(c). Therefore, Plaintiff is entitled to injunctive relief.

FOURTH CLAIM FOR RELIEF

(Injury to Business Reputation and Dilution – Cal. Bus. & Prof. Code § 14330)

63. Plaintiff repeats and incorporates herein by reference each and every allegation contained in Paragraphs l through 62 above, inclusive, as though fully set forth herein.

64. Plaintiff is the owner of a mark that is distinctive and famous in the State of California.

65. On information and belief, Defendants have used and continues to use Plaintiff's famous mark after the mark became famous, which use dilutes the distinctive quality of Plaintiff's mark.

66. On information and belief, Defendants' actions described herein were taken and continue to be taken with full knowledge that such actions would and do dilute Plaintiff's mark and with the intention to cause dilution of the mark.

67. As a result of the actions described herein, Defendants have caused, and unless restrained and enjoined by this Court, will continue to cause irreparable harm, damage, and injury to Plaintiff, including but not limited to injury to Plaintiff's good will and business reputation.

68. Plaintiff has no adequate remedy at law and is being irreparably damaged by Defendants' acts in violation of California Business & Professions Code Section 14330.

FIFTH CLAIM FOR RELIEF

(Unfair Competition Cal. Bus. & Prof. Code § 17200 *et Seq*.)

69. Plaintiff repeats and incorporates herein by reference each and every allegation contained in Paragraphs l through 68 above, inclusive, as though fully set forth herein.

70. California Business and Professions Code Section 17200, et seq., states that unfair competition

shall mean and include any "unlawful, unfair or fraudulent business act or practice."

71. Defendants' actions as alleged herein constitute unlawful business acts and/or practices under Cal. Bus. & Prof. Code § 17200, et seq.

72. Defendants' conduct constitutes unfair business acts and/or practices because Defendants have knowingly and unfairly infringed Plaintiff's LUTE! mark while engaging in business practices.

73. Defendants are now committing the acts complained of above and have continued to do so in defiance of Plaintiff's requests that they cease such acts.

74. Defendants' conduct further constitutes fraudulent business acts and practices because Defendants have deceptively and unfairly marketed, advertised, and sold goods and rendered services under trademarks that are confusingly similar to Plaintiff's LUTE! mark.

75. Defendants' wrongful acts and conduct as alleged herein have permitted or will permit it to generate substantial sales and profits on the strength of Plaintiff's substantial advertising, sales, consumer recognition, and goodwill in connection with Plaintiff's mark.

76. As a result of Defendants' wrongful acts alleged herein, Plaintiff has suffered and will continue to suffer monetary damage in an amount not thus far determined.

77. As a result of the actions described herein, Defendants have caused, and unless restrained and enjoined by this Court, will continue to cause irreparable harm, damage, and injury to Plaintiff, including but not limited to injury to Plaintiff's good will and business reputation.

78. Plaintiff has no adequate remedy at law and is being irreparably damaged by Defendants' acts in violation of California Business & Professions Code § 17200, et seq.

SIXTH CLAIM FOR RELIEF

(Common Law Trade Name and Service Mark Infringement, and Unfair Competition)

79. Plaintiff repeats and incorporates herein by reference each and every allegation contained in Paragraphs 1 through 78 above, inclusive, as though fully set forth herein.

80. Defendants' actions and conduct as alleged herein constitute unfair competition under California common law.

81. Defendants' actions and conduct in adopting and using Plaintiff's mark in California constitute service mark infringement under California common law.

82. Defendants have caused and, unless restrained and enjoined by this Court, will continue to cause irreparable harm, damage, and injury to Plaintiff, including but not limited to, injury to Plaintiff's goodwill and business reputation.

83. Plaintiff has no adequate remedy at law, and Plaintiff is being irreparably damaged by Defendants' acts in violation of California common law, entitling Plaintiff to injunctive relief.

84. Defendants' actions and conduct as alleged herein are malicious and fraudulent and entitle Plaintiff to punitive damages under California Civil Code Section 3294.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for an order and judgment against Defendants, as follows:

85. That Defendants, and each of its officers, directors, partners, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through or under it, and any others within its control or supervision, and all others in active concert or participation with the above, be enjoined during the pendency of this action and permanently thereafter from using the designation LUTE! or any other confusingly similar name, either alone or in combination with other words or symbols, in the marketing, sales, distribution, promotion, advertising, identification, or in any other manner in connection with any Brazilian Jiu-Jitsu training services or goods and other related services or goods at any locality in the United States;

86. That Defendants, and each of its officers, directors, partners, agents, servants, employees, attorneys, confederates, and all persons acting for, with, by, through or under it, and any others within its control or supervision, and all others in active concert or participation with the above, be enjoined

during the pendency of this action and permanently thereafter from using the designation LUTE! or any other confusingly similar name, in any form or manner that would tend to identify or associate Defendants' business or services with Plaintiff;

87. For an order requiring Defendants to deliver to Plaintiff's attorney within thirty (30) days after the entry of any preliminary or permanent injunction, to be impounded or destroyed by Plaintiff, all literature, signs, labels, prints, packages, wrappers, containers, advertising materials, stationery, and any other items in their possession or control that contain the infringing designation LUTE! or any other confusingly similar name;

88. For an order requiring Defendants to remove from their business premises, websites and social media within thirty (30) days after the entry of any preliminary or permanent injunction, all instances of the name LUTE! or any other confusingly similar name, and to destroy all molds, plates, masters, or means of creating the infringing items;

89. For an order requiring Defendants to instruct, within thirty (30) days after the entry of any preliminary or permanent injunction, any print directory, internet directory, or website that it has caused to carry the name LUTE! or any other confusingly similar name, to cease using such names at the earliest possible date;

90. For an order requiring Defendants to file with the Clerk of this Court and serve Plaintiff, within thirty (30) days after the entry of any preliminary or permanent injunction, a report in writing, under oath, setting forth in detail the manner and form in which Defendants have complied with 79 through 83 above;

91. For an order requiring Defendants to account for all profits made by defendant and to hold all such profits in constructive trust for the benefit of Plaintiff;

92. For an award of Defendants' profits and Plaintiff's damages in an amount not yet ascertained according to proof at trial;

93. For an award of three times Plaintiff's damages or Defendants' profits in view of the intentional and willful nature of defendant's acts, pursuant to 15 U.S.C. Section 1117;

94. For an award of punitive damages according to proof;

95. For an award of reasonable attorneys' fees under 15 U.S.C. Section 1117;

96. For an award of pre- and post-judgment interest at the highest rate allowed by law;

97. For an award of costs and disbursements incurred in this action; and

98. For such further relief as this Court shall deem just and proper.

RESPECTFULLY SUBMITTED this 27th day of March, 2017.

GAGNIER MARGOSSIAN LLP

By: *__/s/ Christina M. Gagnier__*
Christina M. Gagnier (CA Bar No. 264578)

Attorneys for Plaintiff,
VB PARTNERS, LLC, D.B.A. LUTE!

JURY DEMAND

Plaintiff hereby demands a trial by jury of all issues triable before a jury.

Dated: March 27, 2017

GAGNIER MARGOSSIAN LLP

By: *__/s/ Christina M. Gagnier__*
Christina M. Gagnier (CA Bar No. 264578)

Attorneys for Plaintiff,
VB PARTNERS, LLC, D.B.A. LUTE!